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## **LOCAL GOVERNMENT FUNDING AND STRUCTURE COMMITTEE**

Simplification in the 21st Century...With the passage of SB 184, the 1999 Legislature established the Local Government Funding and Structure Committee. The need for the Committee was based on the prospect of an annual \$55 million property tax increase for local government and school budgets, which could occur if the SB 184 reimbursements were allowed to sunset June 30, 2001, and the changes required to move all Montana governments toward the following SB 184 vision:

*"We are dedicated to a partnership among state, county, city and school districts that is based on mutual trust and respect for local authority. This partnership will enable all governments to respond to the demands of their citizens in the 21st century through a revenue system that is simple, understandable, equitable, stable and adequate and through a revenue collection and distribution system that is simple, efficient, accurate and timely."*

In working to prevent the potential for a property tax increase and to achieve this vision, the Committee established three primary goals:

1. Simplify billing, collection, accounting, distribution and reporting of all revenue.
2. De-earmark revenue and eliminate expenditure mandates for local government.
3. Create a rational, dependable, stable funding structure for cities and counties.

A significant goal of the Committee's final proposal is to establish a mutual trust that both state and local government officials will need. The recommendations provide local government significantly more financial flexibility and authority. The Legislature will have less control over local government. Local government will

receive an entitlement share of the general fund without specific revenue or expenditure requirements. Building this trust level will be a challenge. To expedite trust building, local government audit provisions have been strengthened and local government financial laws have been revised to provide greater accountability with more financial flexibility and authority.

Committee Makes Recommendations...The Committee is concluding its work and preparing its final report. The following summarizes the Committee's major recommendations.

#### 1. *Budget and Accounting*

Due to the wide variety and disparity in budget and accounting laws for local governments, the Committee established a work group to develop legislation to provide a single set of uniform budget and accounting laws for local government. The draft legislation:

- ▶ simplifies the accounting requirements and expands local financial flexibility and authority;
- ▶ gives county and city commissions clear financial oversight and authority for mill levies and fees;
- ▶ expands and strengthens the Department of Commerce's reporting and audit responsibilities;
- ▶ has an all-inclusive definition of "local governments";
- ▶ eliminates detailed accounting provisions in statute;
- ▶ specifically states that it "does not provide for the consolidation or reassignment of any duties of elected county officials";
- ▶ provides for the county or municipal treasurers to be the custodians of all public monies, including those of special authorities and districts;
- ▶ creates budget adjustment flexibility for some fund types and fee-based budgets;
- ▶ allows for judgment levies to be outside the property tax limit;
- ▶ provides all mill levies are subject to the county or municipal governing board, omitting the past exception for special districts, such as library and airport mill levies;
- ▶ provides for an extended deadline for setting tax levies if certified tax levies are received late; and
- ▶ provides for the amendment or repeal of over 80 existing county and municipal laws.

#### 2. *Revenue Changes*

- ▶ Changes the flow of revenue so that most revenue remains with the government that collects it. The exception is vehicle revenue (light vehicle and truck fees and taxes) that will be transferred to the state general fund. Gambling revenue will be retained by the state. Other changes include the elimination of the property tax reimbursement

programs, consolidating the vehicle registration fees into one registration fee, making other vehicle fees uniform, and having all district court fees, fines and forfeitures deposited into the state general fund.

- ▶ Provides general fund statutory appropriations to replace the de-earmarked revenue for state agencies.
- ▶ Redistributes the de-earmarked revenue to schools through a two-year reimbursement program, similar to that provided in SB184.

### 3. *Expenditure Changes*

- ▶ Transfers total funding responsibility for welfare to the state.
- ▶ Transfers the funding responsibility for district courts, excluding the clerks of district court and their staffs, to the state.

### 4. *Entitlement Share*

- ▶ Creates general fund entitlement share (statutory appropriation from the state general fund) to ensure that local governments receive the same amount of revenue they received in fiscal 2001 with vehicle fees altered to reflect HB 540.
- ▶ Sets the growth rate indices for the entitlement share pool at 70% of the five-year rolling average of the state gross domestic product and personal income. The growth rate is 3.2% for fiscal 2002, and 3.1% for fiscal 2003.
- ▶ Establishes a short-term allocation methodology for the entitlement share based on, first, increasing the base allocation for each county and city by inflation and, second, by distributing any remaining funds based on population.
- ▶ Establishes a study to develop a long-term funding allocation method for the entitlement share program for local government that takes into account tax capacity, tax burden, and the wide disparity in mills levied under current law.

### 5. *Property Tax Limit*

The SB 184 property tax limit remains in place as an overall property tax limit. Existing local government mill levy caps have been eliminated except for the 2-mill emergency levy. The Committee recommendation modifies the SB184 property tax limit as follows:

- ▶ provides a transitional limit for fiscal 2002 to provide at least 2% revenue growth above fiscal 2001 from the entitlement share and property tax;
- ▶ establishes a long-term property tax limit, which will be the fiscal 2002 amount of property tax assessed, plus a growth factor of  $\frac{1}{2}$  of the last three-year average rate of inflation;
- ▶ preserves the right of local governments to use the full property tax

- limit in the future without utilizing it every year; and
- clarifies and improves the definition of "newly taxable property".

6. *De-earmarking and Mandate Guidelines*

- Establishes guidelines for earmarking revenue to local government and a process to continuously review the earmarked revenue.
- Clarifies the process of establishing and funding state mandates for local governments.

7. *Local Option Taxes*

- Authorizes a local option sales tax not to exceed 4%. A vote of the electorate is required and there is some revenue sharing between urban and rural counties.
- Authorizes up to a 1% local option realty transfer tax for infrastructure, with 20% being in a state-operated program and 80% staying in the local community. A vote of the electorate is required.

8. *State and Local Government Relationship Committee*

A temporary (four years) State and Local Government Relationship Committee is created, composed of legislators and local government officials to:

- promote and strengthen local governments;
- bring together representatives of state and local government for consideration of common problems;
- provide a forum for discussing state oversight of local functions, realistic local autonomy, and intergovernmental cooperation;
- identify and promote the most desirable allocation of state and local government functions, responsibilities, and revenue; and
- promote concise, consistent and uniform laws and regulations for local government to achieve a more orderly and less competitive fiscal and administrative relationship between and among state and local governments.

To Hold Public Hearing...The Committee will hold a public hearing via METNET on its recommendations on November 15, 2000, at the Department of Public Health and Human Services auditorium from 11 a.m. to 1 p.m. Following the METNET hearing, the public hearing will continue in Room 152 of the State Capitol until 3 p.m. At 3 p.m. the Committee will conduct a work session to consider changes to the draft report.

For further information about the Local Government Funding and Structure Committee, the November 15 public hearing, or the Committee's recommendations, please contact Judy Paynter, Department of Revenue, at (406)444-2554.

## LEGISLATIVE FINANCE COMMITTEE

To Meet in November...The Legislative Finance Committee (LFC) will meet on November 16 in Room 137 of the State Capitol. Among the items on the agenda are:

- ▶ *Appropriations Process - Recommended Budget Procedures:* The LFC is required by statute to make recommendations to appropriations committee leadership prior to session on "ground rules" for application of the budget process during session. These include procedures for consistent application of statewide issues and other issues of concern in the budget process. The LFC will craft recommendations at the November meeting based on options provided by Legislative Fiscal Division (LFD) staff.
- ▶ *2003 Biennium Budget Analysis:* LFD staff will apprise the Committee of the status of the executive budget preparation and staff progress on analysis of the executive budget.
- ▶ *Department of Public Health and Human Services:* In addition to considering the final recommendations of the Mental Health Managed Care Subcommittee, the LFC will be apprised of the status of the state obligation under the settlement being negotiated with the former contractor for the pay-out of obligated claims under the abandoned managed care concept.
- ▶ *Highways Special Revenue Account Options:* The highways special revenue account, which provides state funds primarily for the state transportation requirements, is facing a potential deficit. LFD staff will provide the LFC with additional information about possible options to keep the fund solvent.

Legislative Fiscal Training...In conjunction with the training activities planned by the Legislative Council, the Legislative Fiscal Division will provide fiscal training to all interested legislators in the first week of the legislative session. The training will be in two parts.

1. *Training for All Legislators:* This training is designed to provide all legislators, whether they are assigned to appropriations committees or not, with a vocabulary with which to speak with authority on, and track and participate in, budget and other fiscal matters during the legislative session. The training will also include a section on reading and evaluating fiscal notes (a statement of anticipated fiscal impact that must be attached to all bills with that potential).

2. *Training for Appropriations Committee Members:* This training will provide more in-depth information on writing the general appropriations act (HB 2) and making it effective. While the information provides more specific information, it will be open to all legislators who wish to possess more extensive knowledge than will be provided in the general training.

Materials designed to augment the training and serve as reference documents will be distributed to all legislators.

## ENVIRONMENTAL QUALITY COUNCIL

EQC Sponsored Legislation...The Environmental Quality Council (EQC) will be sponsoring seven pieces of legislation during the 2001 legislative session. The following is a synopsis of each piece of legislation.

### *Eminent Domain*

- ▶ LC 63 specifies that landowners are not liable for damages to projects on property taken through eminent domain unless they are negligent and also allows for attorney's fees if the landowner is part of a court case and is found to be not liable.
- ▶ LC 162 updates and clarifies the eminent domain statutes and references all areas of the MCA in which eminent domain or public use laws are located.
- ▶ LC 163 states that an easement is the preferred interest to be taken in property in an eminent domain action.
- ▶ LC 164 states that the court must determine appropriate payment for damages to the property taken as well as to any remaining parcel of property that may be adversely impacted by the project.

### *Montana Environmental Policy Act*

- ▶ LC 158 would provide internal consistency with existing law and require that new Montana Environmental Policy Act (MEPA) issues first raised in judicial proceedings be remanded back to the executive agency for further review and analysis.
- ▶ LC 159 is a joint study resolution to request that the EQC conduct a further study and analysis of specific MEPA issues that were left unresolved by the SJR 18 study process.



*Funding for Growth Policies*

- ▶ LC 160 provides \$1 million each fiscal year from the general fund for grants to cities, towns and counties for the development or implementation of growth policies.

If you would like copies of these bills, go to the EQC website at <http://leg.state.mt.us/services/lepo>. If you have any questions or would like additional information or to be placed on the EQC interested persons mailing list, contact Todd Everts by phone at 444-3747 or by e-mail at <teverts@state.mt.us>.

Interested in Environmental Quality Council Reports?...EQC reports discussing the work of its four interim subcommittee's and their recommendations for legislative action in the 2001 legislative session are currently being published. If you would like to find out more about eminent domain in Montana (both a brief citizens' guide and a comprehensive study report are available); suggestions for improving the Montana Environmental Policy Act process; funding for the development and implementation of growth policies by local governments; or current water policy topics, including a summary of recent water-related court decisions and a discussion of issues related to the regulation of hog farms, call the EQC office at 444-3742, or look for the reports in December on the EQC web site at <http://leg.state.mt.us/services/lepo>.

## MENTAL HEALTH MANAGED CARE SUBCOMMITTEE

Subcommittee Makes Recommendations...The Mental Health Managed Care Subcommittee made its recommendations to the Legislative Finance Committee (LFC) at the LFC's meeting on October 3. Two additional recommendations will be made to the LFC at its November meeting.

The LFC adopted and endorsed each Subcommittee recommendation. The recommendations included the adoption of 4 bills, the referral of 6 issues for review by the Public Health and Human Services Joint Appropriation Subcommittee during the 2001 legislative session, and a request for a performance audit by the Legislative Audit Committee.

The Subcommittee also voted to send a letter to the State Board of Land Commissioners regarding the proposed transfer of ownership of the Xanthopolous Building from DPHHS to Anaconda-Deer Lodge. The Subcommittee urged the Land Board to defer from taking action on the transfer of the Xanthopolous building until the transfer could be reviewed by the Legislature.

Each of the four bills recommended by the Subcommittee and adopted by the LFC are summarized as follows:

1. LC 369

This bill revises the laws relating to the public mental health system and

managed care by:

- rescinding the requirements that the Department of Public Health and Human Services (DPHHS) incrementally implement mental health managed care and retain a mental health managed care consultant;
- changing the definition of managed care community network to clarify what type of contracts and services delivered constitute managed care;
- removing the requirement that a Medicaid managed health care entity is subject to licensure and financial solvency provisions of the insurance code;
- requiring a Medicaid managed care contractor to demonstrate to the Insurance Commissioner that it can bear the level of financial risk under a managed care contract prior to DPHHS entering into the contract;
- changing existing statutory requirements for a system of integrated health care services from a passive to active voice; and
- moving the authority for a mental health services program for persons who are not eligible for Medicaid to a section of statute separate from the Medicaid statutes.

## 2. *LC 370*

This resolution directs DPHHS and Department of Corrections to coordinate and collaborate with state agencies, local governments, and the judiciary regarding training and education programs on issues surrounding persons with a serious and disabling mental illness and the criminal justice and corrections systems. This resolution also directs state agencies to cooperate and coordinate in training and education programs with regard to mental illness. The Subcommittee recognized that many different agencies and programs within state government, local government, schools, and the judiciary interact with adults who have a serious and disabling mental illness and children who are seriously emotionally disturbed. This resolution directs an integrated approach to education and training for all persons who deal with such adults and children.

## 3. *LC 368*

This bill defines professional persons to include advanced practice registered nurses (APRN's) and provides that advanced practice registered nurses have certain rights and responsibilities similar to physicians within mental health statutes. The bill:

- includes APRN's with a psychiatric specialty as a professional person within mental health system statutes;
- allows an APRN (with prescriptive authority) to prescribe and administer medication at the Montana State Hospital (MSH); and

- ▶ allows APRN's to testify as a professional in court proceedings regarding commitment to the MSH by virtue of defining such nurses as professional persons.

#### 4. LC 367

This bill generally revises statutes regarding the mental health managed care ombudsman by:

- ▶ changing the name of the ombudsman to a mental health ombudsman;
- ▶ attaching the ombudsman to the Governor's Office rather than the Mental Disabilities Board of Visitors;
- ▶ requiring the ombudsman to prepare an annual report;
- ▶ clarifying that the ombudsman may not provide legal advice; and
- ▶ providing for confidentiality of information associated with an individual compiled by the ombudsman in the course of conducting an investigation and exceptions with regard to confidentiality, such as disclosure when a court has determined that information is subject to a compulsory legal process or discovery.

The ombudsman office was created by Senate Bill 534 and passed by the 1999 Legislature. The Subcommittee determined that these changes would clarify and enhance the function of the mental health ombudsman office.

Direction to Public Health and Human Services Joint Appropriation Subcommittee...The LFC will request the Public Health and Human Services Joint Appropriation Subcommittee to consider six issues during hearings on the 2003 biennium appropriation for DPHHS. Each of the issues for referral to the Joint Appropriations Subcommittee is summarized as follows:

##### 1. *Options to Expand Eligibility for Mental Health Services Plan and Impose Cost Sharing*

The Subcommittee declined to take any action with respect to changing financial eligibility for MSHP or recommending cost sharing options. The Subcommittee directed legislative staff to update cost estimates as additional information becomes available.

The LFC requests that the Joint Appropriations Subcommittee and the 2001 Legislature establish MHSP financial eligibility at the same level as financial eligibility for CHIP for children eligible for both programs and that the Joint Appropriations Subcommittee review updated estimates to expand MHSP financial eligibility and cost sharing options initiated during the interim. (Currently, MHSP and CHIP financial eligibility are both at 150% of the federal poverty level. However, the preliminary DPHHS budget recommends expanding CHIP eligibility to 185% of the federal

poverty level.)

2. *Average Cost of Mental Health Services*

The Subcommittee requested that DPHHS develop the average cost of providing mental health services by system component and age of recipient and the average cost of a high end user of mental health services by system component and age of recipient. The LFC requests that these cost estimates be considered by the Joint Appropriations Subcommittee in reviewing and establishing the appropriation for mental health services.

3. *Average Daily Population for MSH*

The LFC requests that the Joint Appropriations Subcommittee closely evaluate the appropriation request for MSH and, particularly, the estimate of the average daily population (ADP) for the facility. The LFC acknowledges that shortages in the MSH budget are likely to be made up through reductions in the budget for community services unless DPHHS requests a supplemental appropriation. The 2001 biennium MSH budget was based on the executive request and an assumed ADP of 135, while the actual ADP was 158 in fiscal 2000 and DPHHS projects ADP to be 165 in fiscal 2001. (The ADP at MSH was 164 in July 2000, 186 in August 2000, and 180 in October 2000.)

4. *Federal Medicaid Matching Funds for Local Government Cost to Transport Medicaid Eligible Persons to Medical Treatment*

The Subcommittee heard testimony about the cost that local governments incur to transport persons with mental conditions to medical facilities. For instance, half way through the fiscal year, Gallatin County had expended about \$15,000 for such transport. It is possible that the cost of transporting Medicaid eligible persons to medical facilities, other than MSH, could be reimbursed 50 percent by federal Medicaid funds. While legislative staff initiated discussions with federal Health Care Financing Administration staff on the guidelines for such reimbursement, the final guidelines and implementation need to be prepared by DPHHS. The LFC requests that the Joint Appropriations Subcommittee review the DPHHS progress on and implementation of this issue.

5. *Case Management System*

The Subcommittee recognizes that case managers are integral in ensuring that adults and children have access to appropriate mental health services. Effective case management can ensure correct service linkages and can help ensure that persons are served in the community when appropriate. The Subcommittee directed DPHHS to develop a case management model for presentation to the Legislature, and the LFC requests that the Joint Appropriations Subcommittee review the model.

#### *6. Endorsement of Mental Health Oversight Advisory Council Recommendations*

The Subcommittee reviewed the recommendations made to DPHHS by the Mental Health Oversight Advisory Council (MHOAC). The LFC endorsed several MHOAC recommendations including:

- ▶ funding, including personal services costs for 1.0 FTE, to help develop training for law enforcement personnel and interfacing groups in the recognition of mental illness and dealing with persons with a mental condition;
- ▶ development of standardized screening for mental illness to be used in the correctional system; and
- ▶ support for and provision of family and provider education and contracts for peer to peer education.

DPHHS estimated that these recommendations would cost about \$107,000 general fund over the 2003 biennium and DPHHS included the recommendations in its preliminary budget request. The purpose and scope of the MHOAC recommendations are covered in resolution LC 370.

Request for Performance Audit...The Subcommittee reviewed several mental health services established by DPHHS during the 2001 biennium and concluded that processes used to establish, implement and fund the services may not have complied with federal regulations governing Medicaid program administration. The Subcommittee did not question the value or integrity of the services, but focused its concern on the implementation and cost development processes used to authorize and fund the services with Medicaid funds.

The Subcommittee also recognized a change made during re-organization of human services programs in 1995 that spread Medicaid administration among 4 divisions compared to Medicaid administration by 2 divisions in the previous organizational structure. The Subcommittee had concerns that spreading Medicaid administration among more divisions and inevitable turnover in management personnel would dilute the administrative knowledge of a very complex program. The LFC requests the Legislative Audit Committee (LAC) undertake a performance audit of the internal management processes used by DPHHS to ensure compliance with federal Medicaid criteria.

Further Recommendations to be Considered by the LFC...The Subcommittee held its final meeting on October 17 to consider three draft bills for consideration by the LFC at its November meeting. Of the three bills, the Subcommittee will recommend two bills as follows.

#### *1. Use of Video Teleconferencing*

This bill would allow the use of video teleconferencing in certain court proceedings dealing with mental illness and provides for costs. This bill

was requested in response to testimony by local law enforcement personnel, among others, who noted that persons with a mental condition frequently spend long hours being transported to a medical facility, including MSH, for stabilization and then a short time later (sometimes within 24 hours) are transported back to their local community for court hearings. This bill would allow courts to use video conferencing for certain hearings. MSH has a video conference hook up as do many medical facilities, particularly in eastern Montana. And one of the planned improvements for Montana courts is video conferencing capability.

## 2. *Study of Public Mental Health System*

This resolution would continue the study of the public mental health system with representatives of the LFC and other appropriate legislative interim committees. Several interim standing committees of the Legislature are considering study topics related to mental health services in the 2003 biennium. Membership for the study would be drawn from each of the interim committees interested in reviewing mental health issues. Such a structure would provide the most efficient, most integrated, and least duplicative approach to legislative consideration and oversight of public mental health services.

Subcommittee Declines to Make Recommendation...The Subcommittee considered a bill addressing the conditions for commitment and revocation of a commitment to a community facility, program, or course of treatment of persons with a mental disorder. This bill:

- clarifies in several sections of statute that judges have the authority to commit a person with a mental disorder to a community facility, program or course of treatment;
- moves the section of statute governing administration of involuntary medication to a separate section without changing the wording of current statute;
- clarifies that involuntary medication can be prescribed and administered as part of a commitment to community facility, program, or course of treatment; and
- provides for a process to revoke a commitment to a community facility, program or course of treatment and commit a person to MSH if the person has violated a condition of the commitment and the violation has caused a deterioration of the person's mental condition such that the person can no longer be served in the community.

The Subcommittee heard testimony that moving the section of statute governing administration of involuntary medication would highlight the statute and cause it to be used more frequently in community settings. While those testifying before the Subcommittee acknowledged that the process to administer medications

involuntarily in the community is already allowed by the statute, they were apprehensive that due process and an individual's civil rights would be abrogated by hasty or broad application in commitments to community services. Others testifying said that many commitments or re-commitments to MSH were frequently due to a person's discontinuing or refusal to take medications. The Subcommittee had requested that interested persons with divergent opinions cooperate and prepare draft language governing administration of involuntary medications in commitments to a community facility, program, or course of treatment for consideration at the October 17 meeting. Such language was not developed.

The Subcommittee recognized that success in community services for some persons with a serious and disabling mental illness is inextricably linked to medication compliance. However, the Subcommittee also recognized that a person must have due process and protection of individual rights in legal proceedings that result in the administration of involuntary medication. The Subcommittee also recognized that administration of involuntary medication should not take the place of establishing trust and good therapeutic relationships between an individual and his or her doctor.

Although the Subcommittee considered this legislation, it declined to recommend the bill draft to the LFC because additional information was needed to clarify several policy issues. The Subcommittee had requested that interested persons with divergent opinions collaborate to prepare draft language to clarify several parts of the bill draft, but such language was not received. The bill or a form of it may be requested by an individual legislator.

## PUBLIC INFORMATION SUBCOMMITTEE

Council Hears Preliminary Findings... The Legislative Council's Subcommittee on Public Information presented some preliminary findings on the feasibility of broadcasting legislative proceedings to the Council at its September 15 meeting. Some of these are excerpted below. The Subcommittee plans to meet one more time prior the 2001 session, on the afternoon November 16 at the State Capitol in Helena, to review draft legislation to enable and fund the establishment of a gavel-to-gavel broadcasting program, and to take a closer look at the details of the dual track closed circuit cable and Internet experiment (TVX) that staff will be conducting with contracted help during the upcoming legislative session.

For more detailed information on the November 16 meeting and any other aspect of the show-and-tell experiment in the works, contact Stephen Maly at 444-3064 or by e-mail at <smaly@state.mt.us>.

### LIVE! FROM CAPITOL STATION

A Report of the Public Information Subcommittee of the Legislative Council on the Feasibility of Broadcasting Legislative and Other Government Proceedings to a Statewide Audience.

*It goes far beyond just putting things on television.  
The ultimate goal is we need to educate citizens  
about how state government works.*

Paul Giguere, CEO of Connecticut TV

#### GOALS:

Public education about the legislative process has been identified by the Legislative Council as it's top priority for the biennium. Studies in other states have consistently found that broadcasting gavel-to-gavel coverage of the legislature, as well as other live and tape-delayed public affairs programming, has been warmly welcomed by educators and well received by general audiences as an effective, "reality based" tool for learning. This study has engaged people in the telecommunications industry, the media, the University system, non-governmental organizations, and state and local government agencies, all of whom have voiced enthusiasm and support for the endeavor.

Public involvement, especially given the difficulties many Montana citizens face in participating directly in the legislative process on account of extraordinary distances to travel and the associated time and financial cost factors.

Accountability to the public, by making the legislative process more transparent and more readily available to all citizens, regardless of their location and livelihood.

Accurate and accessible public records, especially with regard to legislative intent as evidenced in second reading discussion and debate on the House and Senate floors, which at present is not recorded in any fashion. Videotapes and electronic files can serve as excellent, unofficial archives.

Flexibility, to accommodate technological innovations that improve signal quality and reduce unit costs for program production and delivery, and to allow for the expansion of in-house and field-based programming options.

Proposed Enabling Legislation...The draft bill for enabling legislation will include the following sections:

##### I. Purpose

Language articulating the goals above, as well as the following:

*The purpose of a state-funded public affairs broadcasting program is to provide Montana citizens with increased access to unbiased information about state government deliberations and public policy events through unedited television coverage*



*and other communications technologies.*

## **II. Governance (Duties and Responsibilities)**

The bill will articulate the rationale for choosing an external organization to manage and operate the network, which includes the importance of:

- ▶ keeping the objects of the programming--legislators and other government officials--at arm's length from the producers;
- ▶ covering all three branches of government, to serve the public and ensure a cost-effective program stream;
- ▶ being able to raise money in and accept gifts and donations from the private sector; and
- ▶ maintaining effective and responsible control, through copyright, of recorded material so that it is not manipulated for partisan or other purposes that could damage the institution and the network alike.

The relationship with the non-profit entity will be governed in explicit terms by a contract that is managed and monitored by Legislative Services Division staff. The Legislative Council will have ultimate oversight over all components of the operation that are within the Legislature's ambit of jurisdiction. The non-profit organization (let's call it TVMt) would also be guided by the following principles, adapted from TV Washington's (state) code of conduct:

- ▶ Programming will be fair, accurate, and balanced without regard to partisanship or ideology.
- ▶ Production values will be of the highest attainable quality to accurately convey the genuine pace and tenor of governmental activity.
- ▶ Programming will be scheduled in a manner which acknowledges the importance of timeliness in the delivery of information.
- ▶ Issue coverage and the scheduling of telecasts will reflect a thoughtful balance of subject areas, geographic sensitivities, and attention to the various committees and other deliberative bodies engaged in the process.
- ▶ Programming will reflect the importance of each branch of government: legislative, executive, and judicial.
- ▶ Programming will always be intended to increase public understanding of both the substantive issues and the processes by

which the legislature and other bodies seek to resolve problems, address challenges, and seize opportunities for the public good.

## TRANSITION ADVISORY COMMITTEE

TAC Meets in October...The Electric Industry Restructuring Transition Advisory Committee (TAC) held its next-to-last meeting of this interim on Friday, October 6, in Helena. TAC discussed briefly the Montana Power Company's announced sale of its electricity and natural gas utilities, and later delved into the causes and ramifications of recent, region-wide price spikes and the pending filing of a proposal to the FERC to form (and formalize) a Regional Transmission Organization. TAC passed two motions--to recommend that the Universal Systems Benefits program be extended for 2 years and that some language regarding credits be amended--but a motion to recommend extending the transition period from 2002 to 2004 failed. (Under current law, the Public Service Commission has the authority to extend the transition, under certain conditions.) Given the heightened importance of electricity issues and the abundant uncertainties surrounding them, TAC decided to hold one more meeting, in the State Capitol, on December 7. The agenda has not been set, but it will include several items that were not attended to on October 6 because of time limitations:

- ▶ enabling cooperatives to serve urban customers without first forming for-profit subsidiaries that will be regulated;
- ▶ PSC authority re: fitness/suitability/financial capacity of new owner of the distribution system, and the disposition of earnings resulting from MPC sale to Northwestern Corporation;
- ▶ changing the taxation of utilities and cooperatives, or providing for payments in lieu of taxes, to either prevent tax losses or shifting or to provide incentives for additional investment in electrical generation using conventional or renewable sources; and
- ▶ reviewing the statutory requirements and restrictions regarding the Montana Electricity Buying Cooperative, in light of BPA policy decisions and subsequent appeals in federal court.

Final Report in the Works...Meanwhile, staff is drafting the TAC's annual report to the Legislature and the Governor, the deadline for which is November 1.

For further information, please contact Research Analyst Stephen Maly at (406) 444-3064 or send an e-mail message to <[smaly@state.mt.us](mailto:smaly@state.mt.us)>.

Internet users are invited to visit the TAC web page at [http://leg.state.us/Interim\\_Committees/TAC](http://leg.state.us/Interim_Committees/TAC).

## REVENUE AND TAXATION COMMITTEE

Economic Conditions and Revenue Estimating...The Revenue and Taxation Committee met October 20. As part of its revenue estimating responsibilities, the Committee reviewed national and state economic trends. Mike Donnelly, WEFA Group, presented a national economic forecast for a variety of areas. National trends for inflation and interest rates are incorporated into the Committee's revenue estimates. WEFA predicts that inflation will drop from about 3.3% in this year to 2.5% next year. Increases in energy prices account in large part for the current inflation rate. Interest rates are expected to increase again over the same time period. Although labor markets are tight and unemployment is low, employment growth is expected to taper off. Both the national and world economies appear healthy.

Paul Polzin, Director, UM's Bureau of Business and Economic Research, told the Committee that Montana's economy grew faster than expected in the 1990s, with the construction industry (especially highway construction) leading the way. He expects the state's economy to grow by 2% to 2.5% in "real" terms over the next few years. That is down from the growth rate of previous years. Myles Watts, Chair, Department of Agricultural Economics, Montana State University, presented a cautiously optimistic assessment of the state's agricultural sector. Phil Brooks, Economist, Department of Labor and Industry, discussed recent employment trends and the outlook for the future. According to Brooks, nonagricultural employment in Montana should grow annually by about 1.6% over the next several years compared with a 1.3% annual growth rate in the U.S.

Committee Adopts Resolution To Encourage Stay of Federal Court Order...Earlier this year, a federal district court judge in Missoula issued an order that, among other things, prohibits the Department of Environmental Quality from issuing water discharge permits. The effect of that order is to stall the awarding of contracts for many highway construction projects. The order resulted from a civil action filed by the Friends of the Wild Swan and other organizations challenging the Environmental Protection Agency's administration of the federal Clean Water Act. The Department of Environmental Quality has filed a motion asking the judge to stay part of the order affecting water discharge permits, pending appeal.

Mary Vandenbosch, Resource Policy Analyst, Legislative Environmental Policy Office, presented a general background report that discussed the issues surrounding the order. The report may be found on the Legislative webpage at <http://leg.state.mt.us/Reports/tmdl.htm>.

Mike Foster, Executive Director, Montana Contractors' Association told the Committee that the order will have a devastating impact on Montana's highway construction industry. The Committee unanimously approved a resolution encouraging the federal judge to grant a stay of the order affecting the issuance of water discharge permits, pending appeal to the 9th Circuit Court of Appeals.

Subcommittees Meet in October...The Income Tax Subcommittee met October 19. The Subcommittee reviewed the analysis of eliminating the federal income tax deduction and reducing the top marginal tax rate to 6.9% under 2 scenarios: revenue neutrality and no shift in tax burden. The no shift in tax burden scenario would reduce state income tax collections by about \$17 million. The Subcommittee also reviewed the analysis of basing state income tax liability on federal taxable income, but allowing deductions for unemployment income, tip income, retirement benefits, and payments for health insurance and long-term care insurance. The Subcommittee also discussed increasing the retirement exclusion from \$3,600 to \$4,700. Several member of the public endorsed this modified version of SB 5 from the May 2000 Special Session. However, Joe Balyeat told the Subcommittee that any proposal that is revenue neutral or that increases taxes for anyone will likely have tough sledding in the Legislature. He suggested that the Subcommittee look at adopting income tax simplification, but allow taxpayers to use either the new system or old system to eliminate shifts in tax burden.

The Subcommittee asked Larry Finch, Tax Policy Analyst, Department of Revenue, to analyze the impacts of providing tax cuts ranging from \$5 million to \$15 million under the federal taxable income option.

The Motor Vehicle Revenue Distribution Subcommittee approved the following bill drafts to simplify the distribution of motor vehicle revenue:

1. provide a uniform revenue-neutral distribution of motor vehicle revenue to district courts (LC 234);
2. provide a uniform distribution of motor vehicle revenue to the state highway special revenue account (LC 235);
3. provide that motor vehicle revenue that is distributed on the basis of mill levies go to local mills only (LC 236); and
4. generally revise the distribution of motor vehicle revenue based on the other proposals (LC 237).

These bills will be introduced by the request of the Revenue and Taxation Committee, pending the approval of the light vehicle flat fee referendum in November. (See the October 2000 issue of *THE INTERIM* for prior coverage.)

The Housing Assistance Subcommittee recommended that the full Committee request a bill draft that would appropriate \$2 million from unspent Section 8 funding to the affordable housing revolving loan account. The Committee concurred with the recommendation

November 16 and 17 Meetings...The Income Tax Subcommittee will meet at 10 a.m. on Thursday, November 16, in Helena. The full Committee will meet at 1 p.m. on Thursday, November 16 and at 8 a.m. on Friday, November 17. The Committee will adopt the preliminary revenue estimates for the 2001 Session.

For additional details about Committee activities contact Jeff Martin by calling (406) 444-3064 or by e-mail at <jmartin@state.mt.us>.

## THE BACK PAGE

### SUNSET AT THE END OF THE TRAIL...

By Bob Person, Executive Director (soon to be retired)  
Legislative Services Division

What would one say riding off into the sunset to the Great Divide after serving the Montana Legislature since 1972? What would it matter, all this? War stories are fun over a beverage or two, but grow tiresome in brighter light. Soon enough, I will ride not into the sunset but, instead, off to the mountains and new challenges. How about a few key affirmations? More than one person has thought it impossible for a person to be quite right and still work in a legislative environment all these years. I see it differently. What has sustained my work? What about yours?

Motivated by a keen interest in public policy but little interest in politics, I accepted an invitation to spend October and November of 1972 working with a committee assigned to develop legislation required to implement the new state constitution. The process was fascinating. Who would ever have known such an opportunity even existed in Montana? Naturally, I accepted offers to continue working on bill drafting in December and again in January. When I was invited to continue working on a permanent basis in February, I once again accepted. The learning opportunity was too great to deny. With little thought for the long term, I thought only that this was a good thing to stay with as long as the opportunity to learn remained. And it has remained so for these many years. So, the first affirmation is that the Legislature is and remains a fervent learning environment. I believe long-time legislators and staff would agree that the interaction with the needs and desires of the people for governmental response or laissez faire, whichever it happens to be, is constantly enlightening and never ceases to be fresh, new, and interesting.

Interaction with people also underscores another thing -- this work is important to people. It is the work of the Legislature as the representatives of the people of Montana that is important, really, but the opportunity to support that important work has been truly rewarding. American state legislatures are special places in the world of governments. Most governmental authority in our country resides in the states, and it is the state legislature as the embodiment of the legislative authority of the state that lies dead center of this reality. No governmental authority in our country has more potential to make life better or worse than state government. State government authority lubricates the wheels of commerce by establishing the practical mechanisms that make commerce work -- guaranteeing property rights, establishing and adjudicating the basis of contracts, providing efficient transportation networks, and on and on. State government authority gives civil recognition and support to the

family and the education of its offspring. It goes on and on, but many people don't think about it much, or they allow themselves to think about it wrongly. State government is a key producer of a peaceful and productive civil life. Good government is a very good investment. Supporting the work of the people's representatives to make good government is affirming.

The people in the process have been a great blessing also. This is something I need not tell legislators. Great personal friendships grow often even in the midst of and in spite of partisan battles. I certainly will miss the people. People who have been chosen to represent the communities of Montana in this great enterprise. It really is too bad there is not more understanding of the level of personal sacrifice required of our legislators. I remember being impressed, and frankly surprised, by the level of commitment to doing the right thing for the state and the spirit with which it is done. Legislators really deserve positive recognition for all the work they do. At times it seems that, faced with endless entreaty and derision, members succumb to believing the worst of themselves, their colleagues, and their institution. That may not last, but it hurts. I am sure what the institution needs is to focus more on its strengths and gain, as it is stated in popular parlance, more self-esteem. That could then carry over to correct assessment by the press and public of what really goes on. Maybe legislators won't be feted to parades as returning heroes upon returning home as Sen. Van Valkenburg once suggested might be considered, but I think they (you) deserve to feel as if you should. I thank the many legislators I have worked with for their service and the honor to have been able to work with them.

So, as we approach a new era with term limits, let us have great faith in the resiliency of our people and our governmental systems. There will be failures and successes as always. But I believe the affirming spirit and the great values of public service will prevail. For those of you who will keep on, my best wishes go with you. For those who, like me, are leaving this enterprise, thanks for your service, and please, if you are so inclined, come ride up to our Great Divide and ski with us.



## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BLDG.

### NOVEMBER

November 7, Election Day, holiday

November 10, Veterans' Day observed, holiday

November 16, Districting and Apportionment Commission

November 16, Legislative Council Public Information Subcommittee, Room 102,  
5 p.m.

November 16, Legislative Audit Committee, Room 152, 9 a.m.

November 16, Income Tax Subcommittee, Room 172, 10 a.m.

November 16, Revenue and Taxation Committee, Room 172, 1 p.m.

November 17, Revenue and Taxation Committee, Room 172, 8 a.m.

November 16-17, Legislative Finance Committee, Room 137

November 17, Legislative Council, Room 102, 9 a.m.

November 17, House of Representatives' Caucuses, 4 p.m.

November 18, Senate Caucuses, 8 a.m.

November 23, Thanksgiving, holiday

### DECEMBER

December 7, Transition Advisory Committee, Room 172, 9 a.m.

December 25, Christmas, holiday







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